

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:08CV127-01-MU

STEVE MORRISON,

Plaintiff,

v.

MATTHEW PENNELL, official capacity,

Defendant.

ORDER

THIS MATTER comes before the Court for initial review upon Plaintiffs' Complaint pursuant to 42 U.S.C. § 1983, filed October 27, 2008.

In his Complaint Plaintiff alleges that Defendant Pennell, a correctional officer, refused to replace his food tray when, on one occasion, Plaintiff found a hair in his food.. In order to state a claim under 42 U.S.C. § 1983, a Plaintiff must establish that one of his constitutional rights or federal statutory rights was violated by a person acting under the color of state law. 42 U.S.C. § 1983. Even if taken as true, Plaintiff's allegations do not rise to the level of a federal statutory or constitutional violation. Consequently, the Court will dismiss Plaintiff's Complaint.

IT IS THEREFORE ORDERED that Plaintiff's Complaint is **DISMISSED** pursuant to 28 U.S.C. § 1915(e).

Signed: November 3, 2008



Graham C. Mullen
United States District Judge

